

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Jose E. Blanco Garrido
Cynthia Blasini
Jostoche Associates, S.E.
Jose E. Blanco Blasini Trust
Maria Gabriela Blanco Alvarado

Case Number: 17-02354

vs.

Respondents

UBS Financial Services Incorporated of Puerto Rico
UBS Financial Services, Inc.

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Customers vs. Members

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Maria Gabriela Blanco Alvarado, Jose E. Blanco Garrido, Cynthia Blasini, Jose E. Blanco Blasini Trust, and Jostoche Associates, S.E.: Robert Wayne Pearce, Esq. and Adam Kara-Lopez, Esq., Robert Wayne Pearce, P.A., Boca Raton, Florida, and Julio C. Cayere-Quidgley, Esq., Cayere-Quidgley Legal Services, P.S.C., San Juan, Puerto Rico.

For Respondents UBS Financial Services, Inc. ("UBS") and UBS Financial Services Incorporated of Puerto Rico ("UBSPR"): Peter S. Fruin, Esq. and Mark D. Foley, Jr., Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama, and Leslie Y. Flores-Rodriguez, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: August 31, 2017.

Maria Gabriela Blanco Alvarado signed the Submission Agreement: August 30, 2017.

Jose E. Blanco Garrido signed the Submission Agreement: August 30, 2017.

Cynthia Blasini signed the Submission Agreement: August 30, 2017.

Jose E. Blanco Blasini Trust signed the Submission Agreement: August 30, 2017.

Jostoche Associates, S.E. signed the Submission Agreement: August 30, 2017.

Statement of Answer filed by Respondents on or about: December 26, 2017.

UBS signed the Submission Agreement: September 7, 2017.

UBSPR signed the Submission Agreement: September 13, 2017.

CASE SUMMARY

Claimants asserted the following causes of action: violations of Puerto Rico Uniform Securities Act ("PRUSA") and the FINRA Code of Conduct; common law fraud and constructive fraud; negligent misrepresentation; breach of fiduciary duty under Puerto Rico law; breach of contract; negligent management/supervision; and fraudulent concealment. The causes of action relate to Claimants' investments in Puerto Rico bonds and closed-end bond funds, as well as the use of securities-backed loans.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative and other defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested: rescission or alternatively compensatory damages in an amount to be proven at the hearing; lost opportunity damages; pre-judgment interest from the time the claim accrued; post-judgment interest at the legal local rate; punitive damages in an amount to be determined by the Panel; and all other costs and expenses, including legal fees, incurred as a result of this proceeding.

In the Statement of Answer, Respondents requested that Claimants take nothing by their claims, that their claims be dismissed in their entirety, with prejudice, and that all FINRA forum fees be assessed against Claimants.

At the close of the hearing, Claimants submitted their Notice of Relief Requested and requested as follows: compensatory damages, including updated pre-judgment interest calculation through July 31, 2019, in an amount no less than \$7,309,509.00; punitive damages in an amount equal to at least three (3) times the amount of compensatory damages awarded, pursuant to Mastrobuono v. Shearson Lehman Hutton, Inc., 514 U.S. 42 (1995); attorneys' fees in an amount equal to the greater of 33% of the total award entered or the amount deemed reasonable by the Panel, pursuant to First Interregional Equity Corp. v. Haughton, 842 F. Supp. 105 (S.D.N.Y. 1994), and Puerto Rico Rules of Civil Procedure Rule 44.1 (d), 32 L.P.R.A. Ap. V, R. 44.1 (d); Claimants' out-of-pocket costs and expenses, including, but not limited to, filing fees, expert witness fees, trial exhibit and other photocopy expenses, court reporter fees and witness testimony transcript expenses, in excess of \$170,000.00, pursuant to pages 70 and 71 of the FINRA Office of Dispute Resolution Arbitrator's Guide, November 2018 Edition and Puerto Rico Rules of Civil Procedure Rule 44.1 (a), 32 L.P.R.A. Ap. V, R. 44.1 (a); all FINRA forum fees and expenses be assessed against Respondents and reimbursement of the \$750.00 non-refundable portion of Claimants' FINRA filing fee; and any and all other relief the Panel deemed just and proper.

At the close of the hearing, Respondents requested: an award of \$0 to Claimants; dismissal of Claimants' claims with prejudice; and a recommendation of expungement of all references to this arbitration proceeding from non-party Raul Escudero's

("Escudero") (Occurrence No. 1952523) and non-party Nelson T. Rodriguez's ("Rodriguez") (Occurrence No. 1953771) respective Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On or about April 10, 2019, Respondents filed a Motion in Limine to Exclude Regulatory Settlements and Arbitration Awards from Prior and Unrelated Arbitrations. On or about April 22, 2019, Claimants filed two (2) Memoranda of Law in Opposition to Respondents' Motion in Limine to Exclude 1) Regulatory Findings, and 2) Arbitration Awards.

On or about April 10, 2019, Respondents also filed a Motion in Limine to Exclude Evidence Relating to Claims of Alleged Fund Mismanagement. On or about April 22, 2019, Claimants filed an Opposition to Respondents' Motion in Limine to Exclude Evidence Relating to Claims of Alleged Mismanagement.

At the outset of the April 29, 2019, evidentiary hearings, the Panel heard the parties' oral argument on Respondents' Motions in Limine and thereafter issued an Order in which it partially granted and denied both Motions in Limine.

On or about July 19, 2019, Respondents filed an Opposition and Motion to Strike Claimants' Notice of Filing of Supplemental Authority. On or about July 24, 2019, Claimants filed an Opposition to Respondents' Motion to Strike Notice of Filing Supplemental Authority and to Correct the Notice.

At the close of Claimants' case-in-chief, the Panel heard the parties' oral arguments on Respondents' Opposition and Motion to Strike Claimants' Notice of Filing of Supplemental Authority. The Panel determined that the two-year statute of limitations provided by Section 890 of PRUSA, by the terms of that statute, did not apply to any claim asserted by Claimants in their Statement of Claim in this arbitration case, and therefore, it was unnecessary to rule on Respondents' Opposition and Motion to Strike Claimants' Notice of Filing of Supplemental Authority.

At the close of Claimants' case-in-chief, Respondents also moved for a directed verdict, which Claimants opposed. After consideration of the parties' respective arguments, the Panel determined to treat this Motion for Directed Verdict as a Motion to Dismiss, which the Panel partially granted and partially denied, as set in the Award section below. The Arbitrators' explanation of their decision in the Award Section below is for the information of the parties only and is not precedential in nature.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded, in-person hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. With respect to Respondent's Motion for Directed Verdict, which the Panel deemed to be a Motion to Dismiss, the Panel has decided as follows:

Based on the application of the statute of limitations, pursuant to New York Law, FINRA Rules and Puerto Rico Law, Rules and/or court opinions, Claimants' claims occurring prior to August 31, 2011, are hereby denied due to the application of the six-year statute of limitations, except as to any claim under a cause of action for breach of contract, for which Claimants' claims occurring prior to August 31, 2002, if any, are hereby denied, as the fifteen-year statute of limitations applies.

2. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$4,250,000.00 in compensatory damages.
3. Respondents are jointly and severally liable for and shall pay to Claimants interest on the above-stated sum at the rate of 6.25% per annum from February 28, 2014, through and including payment of this Award.
4. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$170,000.00 in costs.
5. Respondents are jointly and severally liable for and shall reimburse Claimants the sum of \$375.00, representing the non-refundable portion of the claim-filing fee previously paid to FINRA Office of Dispute Resolution by Claimants.
6. Respondents' request for expungement of any and all references to this arbitration proceeding and Occurrence No. 1953771 from non-party Nelson T. Rodriguez's (CRD No. 1092772) CRD records is denied.
7. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence No. 1952523) from registration records maintained by the CRD, for non-party Raul Escudero (CRD No. 1357156), with the understanding that, pursuant to Notice to Members 04-16, non-party Escudero must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (the "Code"), the Panel has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Panel has made the above Rule 2080 finding based on the following reasons:

Non-party Escudero represented Claimants up to October 2006. During the time of representation, the Panel rules that Claimants presented no evidence demonstrating any violation, forgery, theft, misappropriation or conversion of funds by non-party Escudero. Non-party Escudero has no responsibility for the losses occurring subsequent to October 2006. In recommending expungement, the Panel relied upon non-party Escudero's BrokerCheck® Report, and the documentary evidence and testimony presented at the hearing. The Panel noted that Respondents and non-party Escudero did not previously file a claim requesting expungement of the same disclosure in the CRD. Based on Claimants' presentation of pleadings, testimony and evidence, the Panel determined that Claimants opposed Respondents' request for expungement of non-parties Escudero and Rodriguez's CRD records.

8. Any and all claims for relief not specifically addressed herein, including Claimants' requests for attorneys' fees and punitive damages, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 1,575.00
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*The filing fee is made up of a non-refundable and a refundable portion.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Respondents UBS and UBSPR are assessed the following:

For UBS:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

For UBSPR:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s) that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences: October 22, 2018	1 session
April 8, 2019	1 session
One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: January 30, 2018	1 session
Forty (40) hearing sessions @ \$1,125.00/session	= \$ 45,000.00
Hearing Dates:	
April 29, 2019	2 sessions
April 30, 2019	3 sessions
May 1, 2019	3 sessions
May 2, 2019	2 sessions
May 3, 2019	1 sessions
May 6, 2019	2 sessions
May 7, 2019	3 sessions
May 8, 2019	2 sessions
May 9, 2019	2 sessions
May 10, 2019	2 sessions
July 26, 2019	3 sessions
July 27, 2019	3 sessions
July 28, 2019	2 sessions
July 29, 2019	2 sessions
July 30, 2019	3 sessions
July 31, 2019	3 sessions
August 1, 2019	2 sessions

Total Hearing Session Fees	= \$ 47,025.00
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The Panel has assessed \$1,012.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$46,012.50 of the hearing session fees jointly and severally to Respondents.

ARBITRATION PANEL

Richard J. Kaplan	-	Public Arbitrator, Presiding Chairperson
Cheryl E. Winton	-	Public Arbitrator
Karen J. Orlin	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.


Concurring Arbitrators' Signatures



8/16/19

Richard J. Kaplan
Public Arbitrator, Presiding Chairperson


Signature Date



Cheryl E. Winton
Public Arbitrator

8/17/19

Signature Date



Karen J. Orlin
Public Arbitrator

08/16/19

Signature Date

8/19/19

Date of Service (For FINRA Office of Dispute Resolution office use only)